

# Debt Free News



Welcome to Debt Free News! This is our latest edition for December 2009. Happy Holiday's hope all had a wonderful Thanksgiving. The following topics will be discussed this month.

## The Automatic Stay.

Section 362 of 11 U.S.C states in relevant part that the commencement of a case under Section 301, 302 or 303 of this title operates as a stay as to all entities. There are eight specific subsections; we will focus on three of them here.

First, creditor's cannot, start, continue or maintain any lawsuit filed against you for collection of a debt, this means garnishments too, *must* stop.

A creditor *must* stop all enforcement against property of the debtor such as garnishment, foreclosure, or repossession.

A creditor *must* not attempt to enforce on your property like repossess or foreclose *after* the case is already filed.

These are the most common of the eight subsections and seem to be the most relevant to most debtors who need to file either chapter 7 or chapter 13.

**What should you do if your are sued by one of your creditors?**

Ignoring the summons and complaint will only speed up the process for the creditor. Read and understand your rights, and contact your attorney, to protect your rights.

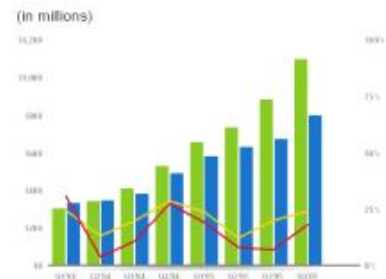
The end result of any lawsuit for money is a judgment against you for the amounts owed, plus their attorney fee's and costs! This will result in a garnishment of your wages, or the intercept of your federal or state income tax refunds. In extreme cases, the seizure of your bank accounts and liens on your property.

As you can see, this is serious, and ignoring the issue will not make it go away.

## Lien Strip and Chapter 13.

Did you know that you can get rid of a second or third mortgage on your house under the chapter 13 subsection. Well now you know. What a tremendous benefit to folks in this housing market.

Here is how it generally works. First, you figure out the value of your house. If it is worth less than the balance on your first mortgage then you may be able to strip the second and subsequent mortgages off. Second, you file a chapter 13 case and with that file a adversary case against the second or subsequent mortgages to strip them off. Lastly, proceed through your chapter 13 case to discharge and those loans are extinguished by law.



## Upcoming Issues . . .

### Fair Debt Collection Act

The Fair Debt Collection Act prevents creditors from harassing debtors. In the next newsletter we will discuss this act and how it can protect you from harassment. Don't miss it!

Also, a link to a wonderful tax professional for the new year.

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